

Senate Bill No. 1076

CHAPTER 324

An act to amend Sections 444.20, 444.22, 444.24, and 1771.7 of the Health and Safety Code, relating to consumer assistance.

[Approved by Governor September 4, 2003. Filed
with Secretary of State September 5, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, Committee on Health and Human Services. Health care consumer assistance programs: continuing care retirement communities: resident satisfaction surveys.

(1) Existing law, until December 31, 2003, provides that all communications between a representative of the Health Rights Hotline and specified individuals, seeking assistance regarding a grievance or complaint, if reasonably related to the requirements of the representative's responsibilities for the program, and made in good faith, shall be confidential.

Existing law prohibits a discriminatory, disciplinary, or retaliatory action to be taken against any health facility, health care service plan, provider, or an employee thereof, or other specified individuals, if the Health Rights Hotline or a program of the Health Consumer Alliance, a partnership of independent, nonprofit legal services agencies, regarding a grievance or complaint and is intended to assist the program in carrying out its duties and responsibilities, unless the action was done maliciously or without good faith.

Existing law also makes certain findings concerning the Health Consumer Alliance as well as the Health Rights Hotline.

This bill would make clarifying and conforming changes to these findings.

This bill would instead provide that these provisions are repealed on January 1, 2011.

(2) Existing law provides for the regulation by the State Department of Social Services of activities relating to continuing care contracts that govern care provided to an elderly resident in a continuing care retirement community for the duration of the residents' life or a term in excess of one year.

Existing law imposes various requirements on continuing care providers including requirements that the provider permit the formation of a resident association by interested residents who may elect a governing body, and that the provider establish policies and procedures

that promote the sharing of information, dialogue between residents and management, and access to the provider's governing body. Existing law further requires a continuing care provider to conduct biannually a resident satisfaction survey that would be made available to the resident association, its governing body, or to a committee of residents, and that would be posted in a conspicuous location at each facility.

This bill would instead require a continuing care provider to conduct this survey biennially.

The people of the State of California do enact as follows:

SECTION 1. Section 444.20 of the Health and Safety Code is amended to read:

444.20. The Legislature finds and declares all of the following:

(a) The health care delivery system continues to undergo rapid and dramatic change. Health care services are provided by a variety of managed care structures, including health maintenance organizations (HMOs), preferred provider organizations (PPOs), and an array of hybrid models that have elements of traditional fee-for-service and indemnity systems while applying managed care's utilization management, gatekeeper, and case management techniques. As a result of these changes, many consumers are confused about how managed care works or have problems navigating the health care system.

(b) The Health Rights Hotline (HRH) operates in the Sacramento area to help all health care consumers. The program's goals are to provide an independent source of information and help for health care consumers, to collect needed information regarding health care consumers' problems, and to advocate for health care system improvements for all consumers. The program is independent from, but works in close collaboration with, health plans, providers, purchasers, insurance agents and brokers, consumer groups, and regulators. The program also works with the local Health Insurance Counseling and Advocacy Program (HICAP), which serves Medicare beneficiaries and those imminent of becoming eligible for Medicare statewide.

(c) The program educates consumers about their health care rights and responsibilities. It also assists consumers with questions about their health plans and with specific problems through hotline and in-person services. In addition, the program collects and analyzes information, generated both by consumers' use of the program and from other sources, that can identify the strengths and weaknesses of particular plans, provider groups, and delivery systems. The program has informed health plans, providers, purchasers, consumers, regulators, and the



Legislature about how independent support can be provided to consumers in managed care.

(d) Maintaining consumer confidence is a paramount concern in the operation of the program. While one vehicle to protect these communications would be to establish attorney-client relationships with consumers served, the program is generally not designed as a “legal” program and it would undercut its collaborative strategy and problem solving orientation if assistance were required to be positioned in a legal context. Furthermore, it is critical that consumers using the program are free from any retribution.

(e) The Health Consumer Alliance (HCA), a partnership of independent, nonprofit legal services agencies, includes seven local health consumer assistance programs in the Counties of Alameda, Fresno, Los Angeles, Orange, San Diego, San Francisco, and San Mateo. These seven Health Consumer Centers help low-income consumers receive necessary health care through education, training, and advocacy, and analysis of systemic health access issues.

(f) The Health Insurance Counseling and Advocacy Program (HICAP) provides Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy services on a statewide basis. HICAP offers information and assistance regarding Medicare, managed health care, health and long-term care related life and disability insurance, and related health care coverage plans.

SEC. 2. Section 444.22 of the Health and Safety Code is amended to read:

444.22. (a) The Legislature recognizes that the Health Rights Hotline, serving the greater Sacramento area, and the Health Consumer Alliance (HCA) programs serving the Counties of Alameda, Fresno, Los Angeles, Orange, San Diego, San Francisco, and San Mateo, provide needed education and assistance to individual consumers and provide the public with critical information about the health care system and how consumers can best be assisted. While most of their financial support is from private sources, the programs serve an important public interest, as does HICAP which statewide serves Medicare beneficiaries and persons imminent of becoming eligible for Medicare.

(b) No discriminatory, disciplinary, or retaliatory action shall be taken against any health facility, health care service plan, provider, or an employee thereof, or any subscriber, enrollee, or agent of the subscriber or enrollee, or any other recipient of health care services or individual assisting the recipient of health care services, if the communication is made to a program described in subdivision (a) regarding a grievance or complaint and is intended to assist the program in carrying out its duties and responsibilities, unless the action was done maliciously or without



good faith. This subdivision is not intended to allow for the unapproved release of confidential or proprietary information by an employee or contractor, or to otherwise infringe on the rights of an employer to supervise, discipline, or terminate an employee for other reasons.

SEC. 3. Section 444.24 of the Health and Safety Code is amended to read:

444.24. This part shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date. Notwithstanding this date of repeal, the privileges and protections provided under this part shall continue to apply to any actions taken or materials collected after January 1, 2011, if they relate to communications or actions made on or before January 1, 2011.

SEC. 4. Section 1771.7 of the Health and Safety Code is amended to read:

1771.7. (a) No resident of any continuing care retirement community shall be deprived of any civil or legal right, benefit, or privilege guaranteed by law, by the California Constitution, or by the United States Constitution solely by reason of status as a resident of a community. In addition, because of the discretely different character of residential living unit programs that are a part of continuing care retirement communities, this section shall augment Chapter 3.9 (commencing with Section 1599), Section 73523 of Title 22 of the California Code of Regulations, and applicable federal law and regulations.

(b) All residents in residential living units shall have all of the following rights:

(1) To live in an attractive, safe, and well maintained physical environment.

(2) To live in an environment that enhances personal dignity, maintains independence, and encourages self-determination.

(3) To participate in activities that meet individual physical, intellectual, social, and spiritual needs.

(4) To expect effective channels of communication between residents and staff, and between residents and the administration or provider's governing body.

(5) To receive a clear and complete written contract that establishes the mutual rights and obligations of the resident and the continuing care retirement community.

(6) To maintain and establish ties to the local community.

(7) To organize and participate freely in the operation of resident associations.



(c) A continuing care retirement community shall maintain an environment that enhances the residents' self-determination and independence. The provider shall do both of the following:

(1) Permit the formation of a resident association by interested residents who may elect a governing body. The provider shall provide space and post notices for meetings, and provide assistance in attending meetings for those residents who request it. In order to permit a free exchange of ideas, at least part of each meeting shall be conducted without the presence of any continuing care retirement community personnel. The association may, among other things, make recommendations to management regarding resident issues that impact the residents' quality of life. Meetings shall be open to all residents to attend as well as to present issues. Executive sessions of the governing body shall be attended only by the governing body.

(2) Establish policies and procedures that promote the sharing of information, dialogue between residents and management, and access to the provider's governing body. The provider shall biennially conduct a resident satisfaction survey that shall be made available to the resident association or its governing body, or, if neither exists, to a committee of residents at least 14 days prior to the next semiannual meeting of residents and the governing board of the provider required by subdivision (c) of Section 1771.8. A copy of the survey shall be posted in a conspicuous location at each facility.

(d) In addition to any statutory or regulatory bill of rights required to be provided to residents of residential care facilities for the elderly or skilled nursing facilities, the provider shall provide a copy of the bill of rights prescribed by this section to each resident at or before the resident's admission to the community.

(e) The department may, upon receiving a complaint of a violation of this section, request a copy of the policies and procedures along with documentation on the conduct and findings of any self-evaluations and consult with the Continuing Care Advisory Committee for determination of compliance.

(f) Failure to comply with this section shall be grounds for the imposition of conditions on, suspension of, or revocation of the provisional certificate of authority or certificate of authority pursuant to Section 1793.21.

